

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 19621 |
| [REDACTED], |) | |
| |) | DECISION |
| Petitioner. |) | |
| _____ |) | |

This case arises from a timely protest of a State Tax Commission staff decision adjusting the property tax reduction benefit for 2006. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision based on the file.

[Redacted] (petitioner) filed a property tax reduction application on or about March 31, 2006. During review of the application, the staff noted the petitioner had checked the box to indicate she was the widow [Redacted]. Because the Certificate of Death was not attached, the petitioner was asked to provide a copy.

The petitioner submitted a copy of the Certificate of Death [Redacted]. After review of the document, the staff sent the petitioner a letter advising her of the intent to deny her the property tax reduction benefit because the Certificate of Death showed [Redacted] was divorced at the time of his death. The petitioner protested the intended action, and her file was transferred to the Legal/Tax Policy Division for administrative review.

When the petitioner received a letter from the Tax Appeals Specialist advising her of her appeal rights, she telephoned to discuss the circumstances [Redacted]. She said that she [Redacted] separated, and he moved [Redacted]. Subsequently, the couple reconciled; [Redacted]. [Redacted].

[Redacted]. Because of hard feelings [Redacted], they did not notify her [Redacted]. His parents submitted the information shown in the Certificate of Death, including the fact that he was a divorced man.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit. The code states in pertinent part:

63-701. DEFINITIONS. As used in this chapter:

(1) **"Claimant" means a person who has filed a claim** under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and **on January 1 of said year a claimant must be:**

- (a) Not less than sixty-five (65) years old; or
- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c) **A widow** or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind. (Emphasis added.)

The code sets out certain eligibility requirements for persons seeking a property tax reduction benefit. In her application for the benefit and in her letter of protest, the petitioner claims she is eligible because of her status as a widow. However, the existing record shows the man the petitioner

identifies as her husband was not married when he died.

Property Tax Administrative Rule 600 States:

600. PROPERTY EXEMPT FROM TAXATION (RULE 600).

The burden of proof of entitlement to the exemption is on the person claiming exemption for the property.

The petitioner said she does not have anything to prove she was still married [Redacted] when he died. She said she was not even aware [Redacted] until some time after the fact. She said she does not have the money to fight [Redacted] to get the record [Redacted] changed. However, she has nothing to support her claim of being a widow. She must be denied the benefit.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the board of county commissioners under Idaho Code § 63-711--the hardship exemption.

WHEREFORE, the decision of the State Tax Commission staff to deny the 2006 property tax reduction benefit is hereby APPROVED, AFFIRMED and MADE FINAL.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

[REDACTED]

[REDACTED]

Receipt No.